THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5936 of 2007

____.4.2007

Between:

Md.Jaffar Ali Khan, S/o.Md.Yousuf Ali Khan
And others

… Petitioners

AND

The Assistant Director, Survey and Land Records, Ranga Reddy District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

Aggrieved by the notices bearing Rc.No.A4/1864/2006 dated 27.1.2007 and Rc.No.A4/1864/2006 dated 14.3.2007 issued by the Deputy Inspector of Survey and Land Records, Ranga Reddy District, the second respondent herein, petitioners filed the present writ petition seeking a writ of Mandamus declaring the action of the second respondent in issuing such notices as illegal and arbitrary.

The short fact of the matter is as follows. The land admeasuring Acs.25.17 gts in survey Nos.1 to 4 and 18 situated at Sikhinderguda village of Rajendranagar Mandal in Ranga Reddy District is statedly inam land in respect of which Jangaiah, Kondaiah and Ramaiah have 1/3rd share each. Petitioner No.4 claims to be son of Jangaiah, petitioner No.5 claims to be son of Kondaiah and petitioner No.3 claims to be son of Ramaiah. They obtained Occupancy Rights Certificate (ORC) from Inams Tribunal-cum-Revenue Divisional Officer, Ranga Reddy District (RDO), under Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955. Petitioners 1 and 2, who are husband and wife, purchased Acs.2.00 each in survey No.1 from ORC holders under two separate sale deeds dated 31.10.1996 and obtained Pattadar Pass Books (PPBs) and Title Deeds (TDs). Staff of respondents 1 and 2 came to the land in the last week of January 2007 to conduct survey purportedly in obedience to the order of this Court dated 01.12.2006 in W.P.No.25094 of 2006. The petitioners then secured the notice dated 27.1.2007. Names of the petitioners were not mentioned in the notice. They therefore submitted objections before the first respondent regarding survey. They alleged

that the respondents 3 to 7 have no manner of right either as owners or as possessors of survey No.99 of Hyderguda village of Rajendranagar Mandal in Ranga Reddy District and that it is not contiguous to the land owned by the petitioners. The second respondent again issued another notice dated 14.3.2007 duly serving a copy thereof on petitioner No.3 informing that survey will be conducted on 24.3.2007. Aggrieved by the said notices, the present writ petition is filed.

Learned Counsel for the petitioners contends that the first respondent has no jurisdiction to conduct survey and without there being a requisition and without proper notification, proposed survey is illegal. Though survey is contemplated in respect of survey No.99 of Hyderaguda village and number of persons purchased plots in the said survey number, no notice was given to any one of them before taking up survey. It is also the contention that while obtaining orders from this Court by filing W.P.No.25094 of 2006, respondents 3 to 7 suppressed the facts and, therefore, respondents 1 and 2 have no jurisdiction to conduct survey based on the said orders. Learned Counsel also submits that though the survey is proposed in respect of survey No.99 of Hyderguda village, it involves the issue of village boundaries and, therefore, unless and until the procedure as contemplated under Section 90 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli (Land Revenue Act, for brevity) is followed, survey is not permissible.

Learned Government Pleader for Revenue (General-T) opposing the writ petition submits that the petitioners claim to be the owners of land situated in Sikhinderguda village whereas survey is contemplated in respect of land in survey No.99 of Hyderguda village and, therefore, they cannot have any grievance. He also submits that survey was ordered by respondents 1 and 2 in accordance with the orders of this Court dated 01.12.2006 in W.P.No.25094 of 2006.

There is no dispute that the petitioners are allegedly owners of land admeasuring Acs.25.17 gts in survey Nos.1 to 4 and 18 situated in Sikhinderguda village. There is also no dispute that the respondents 3 to 7 earlier filed W.P.No.25094 of 2006 praying this Court for a direction to respondent No.1 and the MRO, Rajendranagar Mandal, to survey the land admeasuring Acs.15.19 gts in survey No.99 of Hyderguda village of Rajendranagar Mandal. Therefore, it cannot be presumed that it is a case falling under Section 90 of Land Revenue Act. If there is a dispute regarding the land claimed by the petitioners on one hand and respondents 3 to 7 on the other hand on the ground of overlapping of the land in survey No.99 of Hyderguda village and survey Nos.1 to 4 and 18 of Sikhinderguda village, it is always open to the petitioners to seek appropriate declaration in the

civil Court. A reading of Sections 9 and 10 of Andhra Pradesh Survey and Boundaries Act, 1923 (Survey and Boundaries Act, for brevity) would show that whether it is disputed boundary or undisputed boundary, the Surveying Officer can order survey for the purpose of demarcation, after giving notice to all concerned. Presumably for this reason, the notice was issued to petitioners as they themselves approached first respondent by filing objections for demarcation of the land in survey No.99 of Hyderguda village. In any event when the notice is issued to petitioners for survey, the same cannot be agitated in a writ petition. Therefore, this writ petition cannot be entertained. If ultimately in the survey any prejudice is caused to the petitioners, they can as well prefer appeal under Section 13 of Survey and Boundaries Act.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

April , 2007.
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